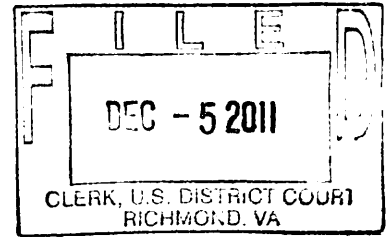


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



MARGARET S. JOHNSON,

Plaintiff,

v.

Civil Action No. 3:11CV802

TARGET STORES, INC.,

Defendant.

NOTICE OF REMOVAL

Defendant Target Stores, Inc. ("Target"), by counsel, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, files this Notice of Removal to remove this action from the Circuit Court of the City of Richmond, Virginia. In support of its Notice of Removal, Target states as follows:

1. On July 22, 2011, Plaintiff filed suit against Target in the Circuit Court for the City of Richmond, Virginia, case number CL11003502-00, entitled *Margaret S. Johnson v. Target Stores, Inc.*, seeking damages in the amount of \$74,000.00 for injuries allegedly sustained in a slip-and-fall accident.

2. Target filed an Answer to the Complaint and issued Interrogatories and Requests for Production to Plaintiff. On November 17, 2011, Plaintiff provided answers to written discovery claiming ongoing medical issues and \$63,000 in medical bills and lost wages. A copy of Plaintiff's Answers to Interrogatories is attached as Exhibit A. That same day, counsel for Target sent an e-mail to counsel for Plaintiff requesting that Plaintiff stipulate as to the value of the case and to agree not to increase the *ad damnum*. Counsel for Plaintiff replied shortly thereafter that he intended to increase the *ad damnum*. A copy of the email exchange is attached as Exhibit B.

3. This Court has original jurisdiction over this action under 28 U.S.C. § 1332 and this action may, consequently, be removed to this Court by Target under 28 U.S.C. § 1441 and 1446, in that:

- a. Defendant Target is a corporation organized under the laws of Minnesota and its principal place of business is located at 1000 Nicollet Mall, Minneapolis, MN 55403.
- b. Plaintiff Margaret Johnson is, and was at the time this action was filed, a citizen and resident of the Commonwealth of Virginia;
- c. Complete diversity of citizenship exists between the parties; and
- d. The matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

4. Although case stated by the initial pleading was not removable, this case became removable under 28 U.S.C. § 1446(b) when Defendant was served with Plaintiff's discovery answers regarding the extent and amount of Plaintiff's alleged injuries and damages and when Defendant received confirmation from Plaintiff's counsel that Plaintiff would not stipulate to damages and intended to increase the *ad damnum*. See *Schwenk v. Cobra Man. Co.*, 322 F. Supp. 2d 676, 678 (E.D. Va. 2004) (To determine jurisdiction, Court looks at "totality of the circumstances," including severity of injuries and refusal to stipulate on damages).

5. It was first ascertained that the case is one which is or has become removable upon receipt of Plaintiff's discovery answers on November 17, 2011, and thus this Notice is timely filed within 30 days after receipt of Plaintiff's discovery answers as an "other paper" pursuant to 28 U.S.C. § 1446. See *Schwenk*, 322 F. Supp. 2d at 680, citing *Yarnevic v. Brink's, Inc.*,

102 F.3d 753, 755 (4th Cir. 1996) (“other paper” broad enough to include any information or admission received by Defendant).

6. Pursuant to 28 U.S.C. § 1446, a copy of all process, pleadings and orders served upon Target is attached as Exhibit C.

7. As of the date of the filing of this Notice, there are no other defendants named in the suit besides Target, and thus all named and served defendants consent and desire to remove the action to this Court.

8. Target has given notice of the filing of this Notice of Removal to counsel for Plaintiff, and has filed a copy with the Clerk of the Circuit Court for the City of Richmond.

WHEREFORE, Defendant Target Stores, Inc., by counsel, requests that this Court remove this action from the Circuit Court for the City of Richmond, Virginia.

TARGET STORES, INC.

By Counsel

/s/  _____

Danielle D. Giroux

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VSb No. 67984

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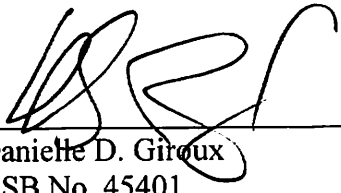
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CERTIFICATE

I hereby certify that on the 2nd day of December, 2011, I have mailed by United States Postal Service the document to the following:

Iving M. Blank Esq.
ParisBlank, LLP
1804 Staples Mill Road
Richmond, VA 23230



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